

UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF

CALIFORNIA

In the Matter of the Search of

(Name, address or brief description of person, property or premises to be searched)

One Acura MDX Automobile  
Vehicle Identification Number;  
2HNYD182X1H504176  
California License Plate: 5YNS295  
Gold in color

APPLICATION AND AFFIDAVIT  
FOR SEARCH WARRANT

Case Number:

**'07 MJ 8944**

I, Luis A. Saenz being duly sworn depose and say:

I am a(n) Luis A. Saenz and have reason to believe

Official Title

that ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)

REFER TO ATTACHMENT A

in the SOUTHERN District of CALIFORNIA

there is now concealed a certain person or property, namely (describe the person or property to be seized)

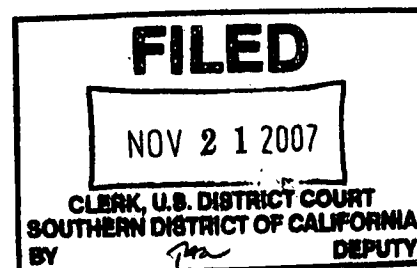
REFER TO ATTACHMENT B

which is (state one or more bases for search and seizure set forth under Rule 41(c) of the Federal Rules of Criminal Procedure)

concerning a violation of Title 21 United States code, Section(s) 841(a) (1), 846, 952 & 960

The facts to support a finding of probable cause are as follows:

REFER TO AFFIDAVIT OF ICE SPECIAL AGENT LUIS A SAENZ



Continued on the attached sheet and made a part hereof:

☒ Yes

☐ No

Signature of Affiant

Sworn to before me and subscribed in my presence,

11-21-07 @ 12:38 pm  
Date

at

EL CENTRO

CALIFORNIA

City

State

Peter C. Lewis

U.S. Magistrate Judge

Name of Judge

Title of Judge

Signature of Judge

ATTACHMENT A

DESCRIPTION OF PROPERTY TO BE SEARCHED

The subject vehicle is a four door, 2001 gold Acura MDX sports utility vehicle, bearing California license plate #5YNS295 and Vehicle Identification Number 2HNYD182X1H504176 registered to Patricia Marie CHAIDEZ of 12566 Bellder Drive, Downey, California. The subject vehicle has been seen parked in a public parking facility located at 201 West 2<sup>nd</sup> Street, Calexico, California.

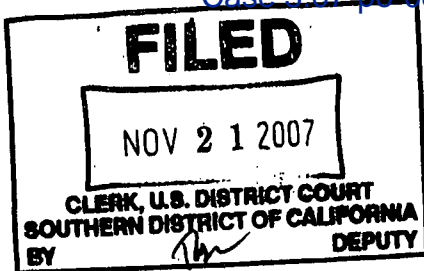
## **ATTACHMENT B**

### **ITEMS TO BE SEIZED:**

After United States Immigration and Customs Enforcement officers gain access to the Acura MDX sports utility vehicle, bearing Vehicle Identification Number: 2HNYD182X1H504176, bearing California license plate: 5YNS295, gold in color, the automobile will be searched for the following information:

- a. Documents relating to or memorializing the ordering, purchase, storage, transportation or sale of controlled substances, including buyer lists, seller lists, owe-pay sheets and records of sales, log books, controlled substances ledgers, personal telephone/address books, or notebooks/notepads suppliers, telephone answering pads, records relating to domestic and foreign travel such as credit card receipts, travel schedules, receipts and records, and storage records, such as storage locker receipts;
- b. Articles of personal property evidencing the existence of a conspiracy to possess and transport controlled substances, including personal telephone/address books, notebooks/notepads, and papers and documents consisting of lists of names, telephone numbers and/or direct connect numbers;
- c. Documents and articles showing the identity of persons occupying, possessing, or controlling the automobile to be searched, and;
- d. Maps, travel itineraries, addresses, or destinations.

Which are believed to be information constituting evidence of the commission of a criminal offense, to wit: violations of Title 21, United States Codes, 952, 960, and 841(a)(1).



## UNITED STATES DISTRICT COURT

## SOUTHERN DISTRICT OF CALIFORNIA

In the Matter of the Search of

One Acura MDX Automobile  
 Vehicle Identification Number;  
 2HNYD182X1H504176  
 California License Plate: 5YNS295  
 Gold in color

Magistrate Case No.:

'07 MJ 8944

AFFIDAVIT OF ICE SPECIAL AGENT  
 LUIS SAENZ IN SUPPORT  
OF SEARCH WARRANT APPLICATION

I, Luis Saenz, being first duly sworn, hereby depose and say:

PURPOSE

1. This affidavit is made in support of an application for a search warrant for federal agents to search the following automobile for information that constitutes evidence of the commission of a criminal offense, and information which is and has been used as the means for committing a criminal offense: (a) one Acura MDX sports utility vehicle, bearing Vehicle Identification Number: 2HNYD182X1H504176, bearing California license plate: 5YNS295, gold in color.

BACKGROUND AND EXPERTISE

2. I am a Special Agent (SA) with United States Immigration and Customs Enforcement (ICE), which is a component agency of the Department of Homeland Security. I have been employed as an ICE Special Agent since May, 2006. I have been cross-designated by the United States Drug Enforcement Administration (DEA) to conduct narcotics investigations and enforce provisions of the Federal Controlled Substances Act, pursuant to Title 21 of the United States Code. Prior to being employed by ICE, I was a United States Customs and Border Protection (CBP) Enforcement Officer from March 2003 to May 2006. My primary duties were to enforce and investigate criminal pursuant to Title 8 and Title 18 of the United States Code, and administrative violations of the Immigration and Nationality Act of the United States. Once the violations were confirmed, I would arrest, process, and/or detain violators for criminal prosecution in the Southern District of California or present them before an Immigration Judge in the Department of Justice's Executive Office of Immigration Review. I started my career as an Immigration Inspector for the United States Immigration and Naturalization Service within the

Department of Justice in August 1995. I progressed in rank and responsibility from the level of trainee Immigration Inspector to Acting Supervisory Immigration Inspector. My responsibilities at the Calexico, California Ports of Entry included: detecting, deterring, and apprehending prohibited controlled substances, as well as inspecting applicants for admission into the United States from the Republic of Mexico, and to determine citizenship and admissibility of those applicants.

3. As an ICE Special Agent, I have participated in training programs related to controlled substances, including but not limited to marijuana, cocaine, methamphetamine and heroin. I have also received training in the methods used by narcotics traffickers to import, distribute, package and conceal controlled substances. Moreover, I have participated in investigations and executed arrests for drug-related offenses, including possession with the intent to distribute, transportation and the importation of controlled substances.

4. This statement is made in support of an application for a search warrant to search one automobile that is believed to contain evidence of violations of Title 21, United States Code, Sections 952 and 960, importation of a controlled substance, and Title 21, United States Code, Sections 841(a)(1), possession of a controlled substance with intent to distribute.

5. This affidavit does not contain all of the information known to federal agents regarding this investigation, but rather, contains only those facts believed to be necessary to establish probable cause.

6. Based upon my training and experience as a Special Agent, consultations with other Special Agents and law enforcement officers experienced in drug trafficking investigations and all the facts and opinions set forth in this affidavit, I submit the following:

- a. Drug traffickers use automobiles to transport narcotics into the United States;
- b. Drug traffickers will transfer narcotics from one conveyance to another. Drug traffickers believe transferring narcotics from one conveyance to another before transporting the narcotics to other locations for distribution or storage decreases the ability of law enforcement personnel to track / discover contraband;
- c. Drug traffickers will possess on their person and/or in their conveyance notebooks, address books, or ledgers listing other identities / phone numbers of conspirators involved in the trafficking, sale, or distribution of narcotics.
- d. ICE agents will transfer the vehicle from its public location to a secured facility. ICE agents will physically examine the vehicle and record their findings using digital photography.

**SUMMARY OF INVESTIGATION / FACTS SUPPORTING PROBABLE CAUSE**

7. This affidavit is based on the reports and documents furnished to U. S. Immigration and Customs Enforcement Special Agent Luis Saenz.

8. On November 18, 2007, at approximately 2129 hours, Patricia Marie CHAIDEZ attempted to enter the United States from the Republic of Mexico at the Calexico, CA West Port of Entry. CHAIDEZ was the driver of a 1998 white Lincoln Navigator and was accompanied by Yolanda Rojas NEWLAND.

9. Customs and Border Protection Officers (CBPO) were conducting pre-primary operations with canine units as CHAIDEZ approached the vehicle primary inspection area. CBP Canine Enforcement Officer (CEO) J. Jones noticed his canine unit alerted to the gas tank of the vehicle driven by CHAIDEZ. CEO Jones informed other CBP officers of the alert.

10. In the pre-primary inspection area, CEO Barroso obtained identification from CHAIDEZ and NEWLAND, then conducted an inspection of the vehicle. CEO Barroso noticed the tank sounded solid and appeared to have been tampered. CEO Barroso informed primary inspector CBPO A. Payton of his suspicions and requested CBPO Payton refer CHAIDEZ, NEWLAND, and the vehicle they occupied to the CBP Vehicle Secondary Area after his inspection.

11. CBPO Payton obtained a negative Customs declaration from CHAIDEZ and NEWLAND. CBPO Payton noticed CHAIDEZ seemed to become nervous and fidget her hands during the primary inspection. CBPO Payton then referred CHAIDEZ, NEWLAND, and the vehicle to the CBP Vehicle Secondary Area for further inspection.

12. In the Vehicle Secondary Area, CBPO J. Becerra obtained a negative customs declaration from CHAIDEZ. CBPO Becerra asked CHAIDEZ about ownership of the vehicle she was driving and their destination. CHAIDEZ stated she purchased the vehicle three months ago and they were going El Centro, California. CEO Jones and CBPO Becerra conducted a secondary inspection of the vehicle driven by CHAIDEZ. CEO Jones discovered an access panel leading to the vehicle's gas tank beneath the carpet under the seat behind the driver. Discovered within the gas tank of the vehicle driven by CHAIDEZ were forty-four (44) packages, with a combined weight of 48.10 kilograms (105.82 pounds) of cocaine. CBPO Becerra probed a package and it produced a white powdery substance that field-tested positive for cocaine.

13. In a subsequent interview of NEWLAND by Special Agent Saenz, NEWLAND stated she and CHAIDEZ departed CHAIDEZ' residence in El Centro, California in a 2000 Acura owned by CHAIDEZ with the intention of ultimately going to Mexicali, Baja California, Mexico. NEWLAND stated she and

CHAIDEZ parked the Acura in a parking facility in Calexico, California and they entered into Mexico together afoot. NEWLAND stated the reason for entering into Mexico afoot was so CHAIDEZ and NEWLAND could retrieve the Lincoln Navigator and drive it into the United States. Upon entering into the United States, NEWLAND stated she was to retrieve and drive CHAIDEZ' Acura to El Centro, California as CHAIDEZ continued to drive the Navigator.

14. A search of the personal affects at the time of the arrest of CHAIDEZ and NEWLAND produced a parking receipt number 16302 for Double AA Parking, located at 201 West 2<sup>nd</sup> Street, Calexico, California, 92231. The receipt was dated November 18, 2007.

15. On November 19, 2007, SA Saenz conducted an interview of CHAIDEZ to obtain biographical information for standard processing forms. During this interview, CHAIDEZ stated she is a user of methamphetamine. CHAIDEZ stated her last use of methamphetamine was on November 16, 2007.

16. On November 19, 2007 SA Saenz and SA C. Herzog traveled to Double AA Parking at 201 West 2<sup>nd</sup> Street, Calexico, California. SA Saenz and SA Herzog did discover an Acura MDX sports utility vehicle, bearing Vehicle Identification Number: 2HNYD182X1H504176, bearing California license plate: 5YNS295, gold in color. Located on the dashboard of the vehicle was a parking receipt dated November 18, 2007 bearing receipt number 16302.

17. On November 19, 2007, SA Saenz requested CBP assist him by providing a narcotics detection dog / handler team to screen the exterior of the vehicle bearing California license plate: 5YNS295. SA Saenz observed the narcotics detector dog return several times to the area between the drivers side front and rear doors. SA Saenz asked CBP Canine Enforcement Officer (CEO) D. Alba if this was an indication that the vehicle contained narcotics in that area. CEO Alba stated it was inconclusive. He further stated the only manner to provide a more conclusive answer was to inspect the interior of the vehicle in case a residual odor was emanating from the interior.

18. On November 20, 2007 CHAIDEZ and NEWLAND were arraigned before United States Magistrate Judge Peter C. Lewis on a complaint for violation of Title 21, United States Code, 952 and 960, Importation of a Controlled Substance.

#### **DESCRIPTION OF PROPERTY/ITEMS TO BE SEARCHED**

19. The property/items to be searched are further described as: One Acura MDX sports utility vehicle, bearing Vehicle Identification Number: 2HNYD182X1H504176, bearing California license

plate: 5YNS295, gold in color. This automobile is presently parked in a public parking facility located at 201 West 2<sup>nd</sup> Street, Calexico, California.

### **DESCRIPTION OF PROPERTY/ITEMS TO BE SEIZED**

20. The items to be seized from the automobile are information constituting evidence of the commission of a criminal offense, and information that is and has been used as the means for committing a criminal offense. The specific criminal offenses involved are violations of Title 21, United States Code, Sections 952 and 960, Importation of a Controlled Substance, and Title 21, United States Code, Sections 841(a)(1), Possession of a Controlled Substance with Intent to Distribute. The items to be seized include the items described below:

a. Documents relating to or memorializing the ordering, purchase, storage, transportation or sale of controlled substances, including buyer lists, seller lists, owe-pay sheets and records of sales, log books, controlled substances ledgers, personal telephone/address books, or notebooks/notepads suppliers, telephone answering pads, records relating to domestic and foreign travel such as credit card receipts, travel schedules, receipts and records, and storage records, such as storage locker receipts;

b. Articles of personal property evidencing the existence of a conspiracy to possess and transport controlled substances, including personal telephone/address books, notebooks/notepads, and papers and documents consisting of lists of names, telephone numbers and/or direct connect numbers;

c. Documents and articles showing the identity of persons occupying, possessing, or controlling the automobile to be searched, and;

d. Maps, travel itineraries, addresses, or destinations.

### **CONCLUSION**

21. Based on the facts contained in this affidavit and my experience and training, I submit that there is probable cause to believe that one Acura MDX sports utility vehicle, bearing Vehicle Identification Number: 2HNYD182X1H504176, bearing California license plate: 5YNS295, gold in color., contains evidence of violations of Title 21, United States Code, Sections 952 and 960, Importation of a Controlled Substance, and Title 21, United States Code, Section 841(a)(1), Possession of a Controlled Substance




with Intent to Distribute. Further, I believe the above-described property / items to be seized will be found when this warrant is served and based on the above-listed probable cause, I specifically request authority to seize the items described above and in Attachment B hereto (which is incorporated by reference herein).

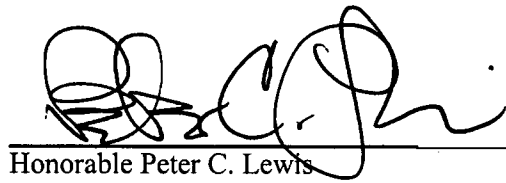
22. I, or any other duly authorized federal agent, will personally serve the warrant requested above, and will be assisted by other duly authorized federal investigators.

23. I have prepared this affidavit in close consultation with several federal agents with whom I work and Assistant U.S. Attorney John F. Weis in the Southern District of California.

I swear the foregoing is true and correct to the best of my knowledge and belief.

  
LUIS SAENZ  
Special Agent  
U. S. Immigration & Customs Enforcement

SUBSCRIBED AND SWORN TO BEFORE THIS 21<sup>st</sup> DAY OF NOVEMBER, 2007.

  
Honorable Peter C. Lewis  
United States Magistrate Judge